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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 1431/2017**

REKHA RANI GUPTA ALLAS ANGURI DEVI & ORS

..... Petitioner

Through: Mr. S.K. Sharma with Mr. Yugant
Kuhar, Advocates.

versus

PRADEEP KUMAR GUPTA & ANR

..... Respondents

Through: Ms. Anusuya Salwan with Mr. Nikhil
Mehta, Advocates for R-1.
Mr. Brijesh Singhal with
Mr. Sikandar Arora, Advocates for
R-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **18.12.2017**

CM No. 45896/2017 (Exemption)

Allowed subject to just exceptions.

CM(M) 1431/2017

The civil suit (CS No.1069/17) from which the present proceedings arise was instituted by the first respondent (plaintiff) on 14.09.2017. Besides the relief of declaration, he also seeks injunction - mandatory and prohibitory. The petitioners are the first to third respondents in the said suit, the second respondent being the fourth defendant.

It appears on the application under Order 39 Rule 1 and 2 of the Code of Civil Procedure, 1908, while hearing the matter, the trial

Judge felt it necessary and proper to direct the parties by order dated 25.09.2017 to maintain status quo *vis-a-vis* the said property. The said order has continued to be operative. It also appears from the copies of the proceedings recorded that arguments at length were advanced by both sides, some objections to ongoing construction also being taken by the second respondent (Municipal Corporation of Delhi), the trial Judge, however, feeling the need to seek some clarifications. Exception, however, is taken to the effect the trial court has not passed any order on the aforesaid application, even though the matter has been adjourned on several dates for such purposes, particular reference being made to the proceedings recorded on 30.11.2017 whereby, in the absence of the petitioners at 12'O clock noon time, the trial Judge adjourned the matter again to 06.01.2018 for seeking clarification, even though by order recorded earlier in the morning the matter had been kept for orders to be passed at 4.00 P.M. It is, however, noted that by earlier order dated 07.11.2017, the matter had been listed to be taken at 12'O clock noon time. It is also noted that on 30.11.2017, the parties did not appear together. This was bound to create confusion. The parties and their counsel will have to bear in mind that they must appear together on the matter being called out so that they can be heard at the same time.

In the above facts and circumstances, it is deemed proper and, therefore, directed that the learned trial Judge shall take up the matter, on its own turn in the cause list, on 06.01.2018 when both sides will be obliged to remain present with their respective counsel on first call. After hearing the parties, the learned trial Judge will fix the matter for

an early date and take a decision on the application under Order 39 Rule 1 and 2 CPC without any further delay.

In the given circumstances, the parties may be well advised to submit their written submissions in advance before the next date so that the need for any clarifications is minimised.

The petition stands disposed of with these observations.

Dasti, under the signatures of the Court Master.

R.K.GAUBA, J

DECEMBER 18, 2017

srb